

### DETAILED ACTION

1. This application is a RCE of SN 10/767,638.

Claims 22-25, 27, 30-31 have been canceled. Claims 1-21, 26, 28-29, 32 are pending.

A terminal disclaimer filed by applicants dated April 16, 2008 has been accepted.

2. *Examiner's Amendment*

Authorization for this examiner's amendment was given in a telephone interview with Michael C. Badia on Jun. 26, 2008.

Claim 21 has been replaced with the following:

21. (Currently amended) A composition comprising [[a]] an antimicrobially effective amount of a compound according to claim 1 or claim 20, and a pharmaceutically acceptable carrier, adjuvant, or vehicle.

Claims 22-32 have been canceled.

22-25. (Previously canceled)

26. (Canceled)

27. (Previously canceled)

28. (Canceled)

29. (Canceled)

30-31. (Previously canceled)

32. (Canceled)

New claims 33-35 are added:

33. (New) A method of controlling, treating or reducing the advancement, severity or effects of a nosocomial or a non-nosocomial *Staphylococcus aureus*, *Enterococcus faecalis*, or *Streptococcus pneumoniae* bacterial infection in a patient, comprising the step of administering to said patient a composition according to claim 21.

34. (New) A method of controlling, treating or reducing the advancement, severity or effects of a nosocomial or a non-nosocomial *Staphylococcus aureus*, *Enterococcus faecalis*, or *Streptococcus pneumoniae* bacterial infection in a patient, comprising the step of administering to said patient a compound according to claim 1.

35. (New) The method according to claim 33 or 34, wherein the bacterial infection to be treated is selected from one or more of the following: a urinary tract infection, a respiratory infection, pneumonia, prostatitis, a skin or soft tissue infection, an intra-abdominal infection, a blood stream infection, or an infection of febrile neutropenic patients.

3. ***Reason for Allowance***

The following is an examiner's statement of reasons for allowance:

Applicants have filed an acceptable terminal disclaimer and amended claims 21, 33-35 to obviate the 112 issues. Support for the amendment was found on page 48 section [00135]. The claimed compound demarcated from the copending cases listed on the April 16, 2008 IDS in that the A moiety is directly attached at the 4-position of the benzimidazolyl ring which must be substituted at the adjacent position with a hydrogen bond acceptor. Hydrogen bond acceptor has been defined on pages 8-10. Such compounds have been shown to have unexpected result against *S. aureus*, *E. faecalis* or *S. pneumoniae* (see 132 declaration 8/22/07 of record). Claims 1-21, 33-35 as currently amended are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celia Chang, Ph. D. whose telephone number is 571-272-0679. The examiner can normally be reached on Monday through Thursday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet L. Andres, Ph. D., can be reached on 571-272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*OACS/Chang*  
*Jun. 26, 2008*

*/Celia Chang/*  
*Primary Examiner*  
*Art Unit 1625*